

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)
)
Improving Public Safety Communications in the) WT Docket No. 02-55
800 MHz Band)

**REGIONAL PRIORITIZATION PLAN OF THE
800 MHz TRANSITION ADMINISTRATOR**

**THE 800 MHz TRANSITION
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SUMMARY

In accordance with our responsibilities, the TA delivers today its Regional Prioritization Plan by which the reconfiguration of the 800 MHz band in the United States may be accomplished. In establishing our Plan, we solicited and received suggestions and comments from all 800 MHz band stakeholders, including the public safety community, critical infrastructure providers, business and industrial land transportation users, and commercial system operators. We are grateful to the parties who responded to our requests for comment.

We considered many factors and many different approaches in crafting our Regional Prioritization Plan. The criteria identified foremost by the Commission – population and interference – informed our analysis, as did the need to deliver a plan that enables the stakeholders to meet the critical timeline established by the Commission. We also considered the need to balance workload with available resources, both temporally and geographically. And, we identified through our outreach efforts clusters of interdependent NPSPAC regions that should be reconfigured together. Where possible, we have provided flexibility within our Plan. We propose to sequence Channels 1-120 and NPSPAC channel reconfiguration to avoid gaps between the negotiation periods and physical reconfiguration.

The major constraining factor in the development of our Plan was the inability to reconfigure most of the Canadian and Mexican border areas at the present time. To this end, we assessed each NPSPAC region on the Canadian or Mexican border and made a determination whether reconfiguration in that region outside the border area may be scheduled. This issue resulted in the separation of border NPSPAC regions in New York, Pennsylvania, and California, among others, from non-border NPSPAC regions in those States.

The Plan we present today reflects, in our judgment, the best balancing of all of these considerations. We have defined three “waves” of NPSPAC regions to be reconfigured, with the first wave starting the formal negotiation period by the end of June 2005. The two succeeding waves will be staged three months apart, with Wave 3 beginning formal negotiations by January 3, 2006. Large systems that span more than one reconfiguration wave are expected to commence negotiations with their first wave, and to proceed with clearing of their Channels 1- 120 in an order consistent with our Regional Prioritization Plan. While we have scheduled a number of border regions to proceed with reconfiguration, a number of significant regions – and 25% of the population – must await further international agreements; these regions comprise our “Wave 4.”

We have planned for five months between delivery of our Plan and the formal commencement of the negotiation period for the first reconfiguration wave. During this time, the TA will be pursuing three related tracks: (1) **frequency planning** – efficient frequency planning is critical to stakeholder acceptance of reconfiguration. The TA has had, and will continue, stakeholder discussions to identify the critical path in frequency planning and expects to rely upon existing resources to ensure stakeholder acceptance of reconfiguration frequency planning. The TA also expects shortly to announce its guidance on the various non-ESMR frequency elections called for in the *800 MHz Order*; (2) **process and policy development** – after selection of the trustee contemplated by the *800 MHz Order*, the TA will be refining and finalizing its policies and processes regarding the payment of reconfiguration expenses and related matters; and (3) **stakeholder outreach and education** – the TA will be continuing its outreach to affected stakeholders through stakeholder meetings, participation in upcoming conferences, and otherwise. We will also be developing and disseminating materials providing stakeholders with

information and assistance in understanding and planning for reconfiguration to ensure an orderly commencement of the program. Pending the formal commencement of Wave 1 reconfiguration, the TA will also establish early implementation policies to encourage, where practicable, stakeholders to begin reconfiguration planning prior to their commencement dates.

While it was not possible to accommodate every comment or suggestion we received and there is no perfect plan, we have attempted to ensure that all stakeholders will be accommodated as quickly and as efficiently as possible. We believe our Plan is achievable within the timeframe set forth by the Commission. That is not to say that it will be easy; indeed, it will not. We are hopeful that this Plan will be received by stakeholders in this spirit and with the recognition that the accomplishment of a national priority depends upon them.

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up the priority of a given region should the region “be encountering unusually severe amounts of unacceptable interference.”³ The Commission also provided that the TA is given the discretion to exclude certain non-public safety licensees from its reconfiguration schedule, so long as they are eventually reconfigured prior to the end of the 36-month reconfiguration period.⁴ In its subsequent *Supplemental Order*,⁵ the Commission further explained that the TA’s discretion extends to changing the reconfiguration schedule to meet “unanticipated demands,” such as reconfiguring two or more NPSPAC regions simultaneously because of systems that span multiple regions. The Commission also required the Plan to include – by NPSPAC region – the relocation option chosen by non-Nextel ESMR licensees.⁶

The proposed RPP reflects a balance of the many considerations consistent with the requirements of the *800 MHz Order* and the TA’s responsibilities described therein. In particular, the TA has crafted the Plan so that it strikes an appropriate balance between NPSPAC regions with larger populations, regions with significant numbers of incidents of interference, the constraints of international border considerations, and the need to have key groups of NPSPAC regions reconfigured at the same time. It also provides flexibility on timing and negotiation to expedite the completion of the reconfiguration process. The RPP also presents, as much as practically possible, a balanced workload of NPSPAC regions and schedules to maximize, to the

January 31, 2005. *Improving Public Safety Communications in the 800 MHz Band*, Order, DA 04-3676 (rel. Nov. 24, 2004) (“*Extension Order*”).

³ *800 MHz Order*, 19 FCC Rcd at 15072 (¶ 195).

⁴ *Id.* at 15072 n. 514.

⁵ *Improving Public Safety Communications in the 800 MHz Band*, Supplemental Order and Order on Reconsideration, FCC 04-294 at 33 (¶ 72) (rel. Dec. 22, 2004) (“*Supplemental Order*”).

⁶ *800 MHz Order*, 19 FCC Rcd at 15075 (¶ 201).

extent possible, efficiency, cost effectiveness, and speed of reconfiguration. To that end, it provides a geographically diverse reconfiguration schedule to help ensure that all NPSPAC regions will have adequate access to planning, service, and support resources. At the same time, the Plan front-loads the reconfiguration of NPSPAC regions having a high number of incidents of interference and larger populations.

In taking into account these considerations, the TA was mindful of the 18-, 30-, and 36-month reconfiguration deadlines found in the *800 MHz Order*,⁷ as amended in the *Supplemental Order*.⁸ As established by the Commission, the key deadlines are: (1) within 18 months of the start of band configuration, all non-Nextel⁹ and non-Southern Communications Services, Inc. (“Southern LINC”) incumbents from Channels 1-120¹⁰ must be relocated in the first 20 NPSPAC regions scheduled in the RPP, and retuning negotiations between Nextel and all NPSPAC licensees must be “initiated” in these same 20 NPSPAC regions;¹¹ (2) all systems must have commenced reconfiguration within 30 months; and (3) all band reconfiguration (with the possible exception of international border areas) must be completed within 36 months after the start date for reconfiguration. The TA proposes a reconfiguration start date of June 27, 2005.

⁷ *Id.* at 15075 (¶ 201).

⁸ *Supplemental Order* at 24 (¶ 53).

⁹ The references to “Nextel” in the RPP include Nextel Communications, Inc. and its affiliate, Nextel Partners, as appropriate. *See 800 MHz Order*, 19 FCC Rcd at 15121 n. 743.

¹⁰ The public safety community generally refers to these channels by their frequency designation of 806-809 MHz. For purposes of conformity with the *800 MHz Order*, the TA will use the term “Channels 1-120” throughout the RPP.

¹¹ Due to the aggressive reconfiguration schedule in the RPP, the TA anticipates that significantly more than 20 NPSPAC regions will meet the 18-month benchmark, including many geographically large and high population regions.

The RPP's scheduling provides Nextel the opportunity to meet (and, indeed, significantly surpass) the Commission's 18-month interim benchmark requirement of December 27, 2006. Further, the Plan has all NPSPAC regions not dependent on new international treaties beginning NPSPAC reconfiguration negotiations by December 29, 2006. This schedule provides that all systems will commence reconfiguration by November 27, 2007, and that the reconfiguration of the entire 800 MHz band, to the extent possible, will be completed by June 27, 2008, 36 months after the reconfiguration start date.

The TA collected information from 800 MHz band stakeholders, including the NPSPAC Regional Planning Committees, public safety groups, industry trade associations, equipment vendors, individual licensees (public safety, government, private, utility, and commercial), and industry experts and consultants. The TA held numerous meetings and teleconferences with many of these and other stakeholders. Accordingly, the RPP reflects, to the extent possible, the many concerns and needs expressed in these comments and meetings. For example, many commenters recommended that certain NPSPAC regions be reconfigured together, and, to the extent practicable, the TA honored these requests in the Plan through the formation and use of "clusters" in which certain NPSPAC regions are to be reconfigured simultaneously.

The RPP also proposes that all NPSPAC regions and clusters be assigned to one of four prioritization "waves." The first three waves are structured to ensure that reconfiguration for these NPSPAC regions will be complete by June 27, 2008. To meet this schedule, these waves would each start three months after the preceding wave. The fourth wave consists only of NPSPAC regions with international border areas that, in the TA's judgment, cannot be reconfigured until new border treaties are reached with Canada and Mexico. The RPP does not

include these NPSPAC regions within the 36-month timeframe for completion of reconfiguration.¹²

The TA considered many different reconfiguration plans and schedules, but ultimately determined that the proposed RPP is best able to meet the Commission's prescribed reconfiguration deadlines. For example, the TA considered a more granular approach wherein each NPSPAC region would begin reconfiguration on defined start dates in successive order based on population size and the reported number of incidents of interference. Although this approach presents a certain sequential logic, it was not used because it failed to take into account stakeholders' requests and technical exigencies to reconfigure certain "clusters" of NPSPAC regions together. It also does not take into account the significant international border constraints affecting some NPSPAC regions resulting from the current lack of treaties with Canada and Mexico.

Through its data analysis and outreach, the TA estimated that it will typically take a NPSPAC region up to 30 months to complete reconfiguration. Accordingly, the TA concluded that it was necessary for all possible NPSPAC regions to start reconfiguration within six months after the first region begins reconfiguration in order to finish all NPSPAC regions by the Commission's 36-month deadline. The TA found that using a more granular approach would result in some NPSPAC regions starting reconfiguration too late to meet this goal.

Although no reconfiguration plan could accommodate each and every identified concern, the TA is committed to continuing its outreach to all stakeholders and to improve the Plan where possible and appropriate. In particular, some NPSPAC regions will begin the reconfiguration process earlier than they may have requested, while others may start later than they had preferred.

¹² See *800 MHz Order*, 19 FCC Rcd at 15125 (¶ 332); *Supplemental Order* at 13-14 (¶ 26).

All stakeholders, however, are asked to keep in mind that no NPSPAC region will have to wait to begin reconfiguration more than six months after the first NPSPAC region begins reconfiguration. The TA also is cognizant that there may be a need to change the RPP in response to changing needs or conditions as the reconfiguration effort proceeds. The proposed RPP provides that there will be sufficient time for these changing needs and conditions to be identified and addressed, and lessons learned from the early reconfiguration efforts will be applied to subsequent efforts. The TA will remain flexible and responsive to these and other factors going forward.

II. PROCESS TO DEVELOP THE PLAN

A. Stakeholder Outreach Efforts

The TA requested, and the Commission granted, a 60-day extension to file the RPP to provide adequate opportunity for stakeholders to provide their input to the RPP process.¹³ Since then, the TA has conducted both general and focused outreach to solicit both the views of the 800 MHz band constituencies and key data points needed for the TA's planning. A significant portion of the TA's efforts to date has focused on soliciting and incorporating this input into the RPP.

1. December 17, 2004 Letter

On December 17, 2004, the TA distributed a letter to all NPSPAC Regional Committees and Association of Public-Safety Communications Officials International ("APCO") Local Frequency Advisors. The TA's letter was targeted to these parties because of their unique understanding of the NPSPAC regions and the interference that was being encountered by public

¹³ See footnote 2, *supra*.

safety communications systems. The letter requested detailed input on the RPP, including comment on the following specific questions:

- What 800 MHz systems – NPSPAC or other – are you aware of in your region that are experiencing interference from Nextel or cellular carriers, other than those that have already been reported to APCO?
- What are the largest 800 MHz systems in your NPSPAC region, PSR, or state? Are any of these systems statewide? Does your organization have systems that operate in more than one region?
- Is your NPSPAC regional plan closely coordinated with plans in any adjoining regions? In your opinion, should the reconfiguration of your region be done at the same time as an adjoining region, and if so which one(s)?
- Are there any 800 MHz systems in your region that operate in border regions and non-border regions? ... If your state or PSR includes a border region, are there large systems and/or mutual aid channel plans that prevent your entire state or PSR from being reconfigured prior to the finalization of agreements with Canada and Mexico?
- Are there any major system upgrades ongoing or planned in your region that should either accelerate or delay reconfiguration?

The TA received 27 comments from NPSPAC Regional Committees and APCO Local Frequency Advisors discussing reconfiguration in 29 NPSPAC regions.

2. December 21, 2004 Press Release

On December 21, 2004, the TA distributed a press release requesting informal stakeholder comment by January 12, 2005 on the RPP under development.¹⁴ Comment was sought on the following issues:

¹⁴ A copy of the press release was submitted to the Commission record in WT Docket No. 02-55. See *800 MHz Transition Administrator Invites Industry Comment on 800 MHz Regional Prioritization Plan*, Press Release (December 21, 2004). Although comments were requested by January 12, 2005, the TA, to the extent possible, has continued to consider submissions received past this date to ensure that the proposed RPP is as comprehensive and responsive to stakeholder comments as possible.

- NPSPAC regions that should be reconfigured simultaneously with others, due to large 800 MHz systems that span regional boundaries or that have integrated spectrum plans with adjacent NPSPAC regions;
- NPSPAC regions along the Mexican or Canadian borders that cannot be reconfigured until a new NPSPAC channel plan has been negotiated with the neighboring country;
- NPSPAC regions that should be reconfigured as soon as possible because of excessive interference from cellularized systems;
- NPSPAC regions that should be reconfigured later in the process because of large systems that are currently in the process of a major upgrade or system change; and
- Any other comment interested parties had on the reconfiguration priority or sequence.

The TA received 26 comments addressing reconfiguration issues in 27 NPSPAC regions and nationwide. Commenters included state executive agencies, state and local public safety entities, utilities, commercial system operators, equipment vendors, frequency and planning consultants, industry associations, and frequency coordinators.

3. Stakeholder Meetings/Conferences

In conjunction with its requests for written input, the TA met with or held teleconferences with many stakeholders in the 800 MHz band. More specifically, the TA held more than 20 meetings with public safety stakeholders. The TA also attended the National Public Safety Telecommunications Council (“NPSTC”) conference in November 2004, the AMTEX conference in November 2004, and a NPSTC meeting in January 2005. Meetings and teleconferences were also held with Critical Infrastructure Industries (“CII”) interests, including the United Telecom Council (“UTC”), a leading CII industry association. The TA also met with the International Telecommunications Association (“ITA”), PCIA: the Wireless Infrastructure Association, and the American Mobile Telecommunications Association (“AMTA”), which represent Business, Industrial, and Land Transportation (“B/ILT”) interests in the 800 MHz band. In addition, the TA met with members of the Land Mobile Communications

Council (“LMCC”), an umbrella organization for public safety, critical infrastructure, and wireless business communications that includes frequency coordinators for the various types of licensees in the 800 MHz band. Additional meetings were held with equipment vendors and commercial system operators. All of these meetings and conferences have informed the development of the Plan.

B. Datasets and Analysis Used in Prioritization

The TA also conducted extensive data analysis to collect and study available information for determining regional prioritization. This effort, in particular, sought to identify and characterize incidents of interference suffered by licensees, especially by public safety licensees. To begin, the TA reviewed the record found in WT Docket No. 02-55. It also analyzed the APCO and Nextel interference complaint and mitigation databases.¹⁵ As noted above, the TA requested stakeholders as part of its outreach efforts to provide additional reports of interference, especially those not already reported to either APCO or Nextel.¹⁶

Although the licensing status of any frequency band is never static, the TA required a data “snapshot” of the 800 MHz band as a starting point. The TA pulled this “snapshot” from

¹⁵ APCO’s “Project 39,” initiated in 2001, produced reports in December 2001 and May 2002 that identified individual instances of interference to public safety operations. The reports also provided a technical analysis of the causes for such interference and recommended mitigation techniques. The 2002 report was submitted to the Commission in WT Docket No. 02-55. *See APCO Project 39*, WT Docket No. 02-55, Six Month Status Report (submitted May 6, 2002). The December 2001 report is available at: http://www.apcointl.org/frequency/project_39/. Nextel also submitted an analysis of its collected interference data in WT Docket No. 02-55. *See Ex Parte Presentation of Nextel Communications, Inc.*, WT Docket No. 02-55, (submitted July 1, 2003); *Ex Parte Presentation of Nextel Communications, Inc.*, WT Docket No. 02-55, (submitted May 16, 2003). Nextel later provided updated information from its interference database directly to the TA.

¹⁶ To the extent the TA has identified reports of interference not contained in Nextel’s database, the TA is seeking the consent of the parties who reported such interference to forward their reports to Nextel and is encouraging them to communicate directly with Nextel.

the Commission's Universal Licensing System ("ULS") database, which includes over five million licensee records relating to the 800 MHz band. The 800 MHz band licensing records were used to identify what NPSPAC regions have a heavy or light licensing "landscape," and where there is licensing in areas adjacent to other NPSPAC regions, across regional boundaries, or along the Canadian or Mexican border.

C. ESMR Elections

In order to comply with the Commission's requirement that the RPP include the relocation election of each non-Nextel ESMR, the TA conducted ESMR elections.¹⁷ More specifically, on January 6, 2005, the TA distributed a press release providing guidance to ESMRs regarding their need to make elections and containing instructions for filing elections, including information to be submitted to support the elections.¹⁸ The TA requested ESMR elections by January 21, 2005. On January 14, 2005, the Commission issued a *Public Notice* announcing the

¹⁷ See *800 MHz Order*, 19 FCC Rcd at 15075 (¶ 201). ESMRs were required to elect one of the following options: (1) to relocate all of their systems in a market into the new ESMR portion of the 800 MHz band; (2) to relocate their systems as close as possible to the new ESMR band but remain in the non-cellular portion of the band operating on a strict non-interference basis; or (3) to remain on their current channels on a strict non-interference basis. See *id.* at 15056 (¶ 162).

¹⁸ A copy of the press release was submitted to the Commission record in WT Docket No. 02-55. See *800 MHz Transition Administrator Provides Guidance on ESMR Elections*, Press Release (January 6, 2005). Because the term "ESMR" was first defined as a unique category of licensee in the *800 MHz Order*, see 47 C.F.R. § 90.7, as amended, licensees making ESMR elections were required to provide information to support their categorization as ESMRs (*e.g.*, documentation establishing that they are operating a high-density system with: (1) more than five overlapping interactive sites featuring hand-off capability and (2) at least one site with an antenna height of less than 30.4 meters (100 ft.) above ground level with an antenna height above average terrain ("HAAT") of less than 152.4 meters (500 ft.) and twenty or more paired frequencies). Parties seeking to relocate site-based cells to the ESMR band were also asked to provide supporting information to justify the relocation. See *Supplemental Order* at 35-36 (¶78).

availability of the TA press release on ESMR elections and encouraging ESMRs to consult the press release regarding the process for filing their elections.¹⁹

On January 21, 2005, ESMR elections were filed by AIRPEAK Communications, LLC and Airtel Wireless Services, LLC. Preferred Communications Systems, Inc. (“Preferred”) also submitted a filing purporting to make an ESMR election on behalf of North Sight Communications, Inc. and Trunked Systems PR, Inc. Preferred claimed the right to make an ESMR election on behalf of North Sight Communications, Inc. and Trunked Systems PR, Inc. by virtue of an executed stock purchase agreement. Preferred, however, did not submit the stock purchase agreement or the certification requested by the TA. Further, the TA received a letter from North Sight Communications, Inc. and Trunked Systems, PR, Inc. indicating that the relevant system does not currently meet the Commission definition of “800 MHz Cellular System,” and that Preferred does not have authority to make an ESMR election on their. Additionally, on January 27, 2005, the TA received an ESMR election and certification from Colorado CallComm, Inc. Supporting documentation was received on January 31, 2005.

¹⁹ See *Transition Administrator Press Release*, Public Notice, DA-05-104 (WTB Jan. 14, 2005).

The following table summarizes the ESMR elections received by the TA:

Licensee	NPSAC Region	Affected Economic Areas (EAs)	Election
AIRPEAK Communications, LLC	2	171	Relocate all systems in market to ESMR portion of the band
	3	153, 154, 156	Relocate all systems in market to ESMR portion of the band
	6	151, 162, 163, 164, 165, 166	Relocate all systems in market to ESMR portion of the band
	7	155	Relocate all systems in market to ESMR portion of the band
	12	147, 148	Relocate all systems in market to ESMR portion of the band
	24	094	Relocate all systems in market to ESMR portion of the band
	27	151, 153	Relocate all systems in market to ESMR portion of the band
	29	136, 138, 139, 155, 156, 157	Relocate all systems in market to ESMR portion of the band
	35	165, 166, 167, 168	Relocate all systems in market to ESMR portion of the band
	41	153, 154	Relocate all systems in market to ESMR portion of the band
	43	147, 167, 168, 169	Relocate all systems in market to ESMR portion of the band
	46	148	Relocate all systems in market to ESMR portion of the band
	50	157	Relocate all systems in market to ESMR portion of the band
	52	136, 138	Relocate all systems in market to ESMR portion of the band
Airtel Wireless Services, LLC	25	144, 145, 146	Relocate all systems in market to ESMR portion of the band
	46	144	Relocate all systems in market to ESMR portion of the band
Colorado CallComm, Inc.	7	141	Relocate all systems in market to ESMR portion of the band
	16	141	Relocate all systems in market to ESMR portion of the band
	26	141	Relocate all systems in market to ESMR portion of the band
Preferred Communications Services	47	174	Relocate all systems in market to ESMR portion of the band

In addition to these ESMR elections, the TA received correspondence from Southern LINC documenting that the company was not required to submit an ESMR election based on specific language in the Commission’s Orders and due to the separate agreement between Southern LINC and Nextel related to the expanded ESMR band in the Southeastern United States.²⁰ Southern LINC also indicated that, in the unlikely event that the separate agreement between Nextel and Southern LINC for the Southeastern United States is not finalized, Southern LINC would elect to relocate to the ESMR portion of the 800 MHz band.²¹ Nextel Partners also

²⁰ See *800 MHz Order*, 19 FCC Rcd at 15057-59 (¶¶ 164-169) (discussing the expanded ESMR plan for portions of the Southeastern United States and noting that Southern LINC intends to relocate to the ESMR band). See also *Improving Public Safety Communications in the 800 MHz Band*, Order, 19 FCC Rcd 22876 (¶ 2 n. 9) (2004) (noting that the ESMR elections do “not affect Southern LINC”); *Supplemental Order* at 37 (¶ 82) (noting that discussion of relocating ESMR licensees “does not apply to the relocation of channels licensed to Nextel and SouthernLINC in SouthernLINC’s territory”).

²¹ Nextel and Southern LINC’s agreement relates to ESMR spectrum in Southern LINC’s service territory in the Southeastern United States must be submitted to the Commission for approval by February 7, 2005. See *800 MHz Order*, 19 FCC Rcd at 15058 (¶ 167) (requiring submission of the agreement by December 22, 2004). The deadline was subsequently extended by 45 days to February 7, 2005. See *Commission Seeks Comment on Ex Parte Presentations and Extends*

submitted a letter to the TA noting that “out of an abundance of caution” it elects to “relocate its systems into the new ESMR portion of the 800 MHz band.”

The TA notes that it did not conduct analysis of the ESMR elections it received beyond a facial review of the documentation provided in support of each licensee’s ESMR status. The TA is still reviewing the submissions that it received and does not here express any view as to whether these submissions satisfy in whole or in part the eligibility requirements set forth in Section 90.7 of the Rules or the requirements for relocating site-based systems associated with a relocating ESMR found in the *Supplemental Order*.²²

D. Other Elections

Although the *800 MHz Order* only requires ESMR elections to be included in the RPP, the TA notes that other 800 MHz incumbent relocation elections are contemplated in the proceeding. Specifically, public safety entities currently located at 815-816 MHz/860-861 MHz must make an election if they wish to remain in the new Expansion Band.²³ Also, non-NPSPAC public safety, CII, B/ILT, and SMR licensees otherwise being relocated may elect to be relocated into the Expansion Band and/or the Guard Band in certain circumstances.²⁴ Finally, on December 22, 2004, the Commission clarified that non-ESMR Economic Area (“EA”) licensees may elect to relocate to the ESMR Band under certain conditions.²⁵

Certain Deadlines Regarding the 800 MHz Public Safety Interference Proceeding, Public Notice, 19 FCC Rcd 29412 (2004).

²² See *Supplemental Order* at 35-36 (¶ 78).

²³ See *800 MHz Order*, 19 FCC Rcd at 15051-52 (¶ 151).

²⁴ *Id.*

²⁵ See *Supplemental Order* at 36 (¶ 79). Conditions imposed on non-ESMR EA licensees electing to relocate to the ESMR Band include: (1) receipt of only the analog of comparable facilities (the same unencumbered area) held prior to relocation; (2) recovery of only reasonable

In addition to these elections, the TA will consider other elections for voluntary relocation as spectrum limitations and sound spectrum policy permit.²⁶ The TA intends to provide guidance to 800 MHz licensees on these various elections and establish a deadline for these elections in the near future. For clarity, we emphasize that the date for these elections, including elections by EA licensees seeking to convert to ESMR status, has not yet passed and will be announced in the near future. Upon review of these elections, the TA may seek to revise the RPP if appropriate.

E. Methodology to Determine Prioritization

The TA's methodology for prioritization adhered to the constraints and requirements prescribed in the *800 MHz Order* and the *Supplemental Order*. High priority was given to NPSPAC regions with larger populations and NPSPAC regions that reported high incidences of interference. The overriding obligation of the TA, according to the Commission, is to ensure and facilitate that the reconfiguration of the 800 MHz band proceeds in a timely and equitable manner to all concerned.²⁷

The *800 MHz Order* also requires that the reconfiguration of Channels 1-120 in each NPSPAC region must precede NPSPAC channel reconfiguration.²⁸ In addition, the RPP provides, as required, that 20 NPSPAC regions will complete reconfiguration within the first 18 months of an aggregate 36-month window.²⁹ The TA also gave strong consideration to inter-

transactional costs; and (3) the requirement to operate an ESMR system and abide by the rules applicable to such systems.

²⁶ See, e.g., *id.* at 39 (¶ 86).

²⁷ *Id.* at 33 (¶ 72).

²⁸ *800 MHz Order*, 19 FCC Rcd at 15052 (¶ 153).

²⁹ *Id.* at 15075 (¶ 201); *Supplemental Order* at 24 (¶ 53).

dependent relationships between two or more NPSPAC regions suggesting that these NPSPAC regions are best reconfigured at the same time. As suggested by many stakeholders, the TA considered factors in this analysis such as geographic proximity, coordinated systems across regional boundaries, and major urban areas that fall into two or more NPSPAC regions.

The TA also took into account international border issues. In particular, the TA considered whether portions of a given NPSPAC region could be reconfigured in the absence of a new border treaty with Canada or Mexico. NPSPAC regions on the U.S. borders with few affected systems in the border areas will be scheduled for reconfiguration. The TA has identified other border NPSPAC regions that, in its judgment, cannot be reconfigured in the absence of a new treaty with either Canada or Mexico, or other Commission action.

The RPP establishes rapid reconfiguration start dates for each NPSPAC region to meet the Commission's 18-, 30-, and 36-month deadlines. To ensure adequate progress, each NPSPAC region will be assigned a specified start date. The RPP includes defined milestones and notice requirements for completion that will be tracked by the TA. Through these mechanisms, the TA will be able to identify any NPSPAC region(s) where reconfiguration may be falling behind the established schedule. Accordingly, the TA will be in a position to take any necessary actions, such as making available additional resources or expediting the mediation of issues between parties, to facilitate the reconfiguration process.

The TA has also considered seasonal issues particularly relevant to public safety and CII entities that will likely affect various reconfiguration efforts across the country. These issues include the hurricane season, the winter season, and the likelihood of forest fires at predictable times in certain NPSPAC regions. The TA recognizes that there is likely to be increased utilization of 800 MHz public safety and CII systems during these periods, and the TA has

designed the RPP to provide sufficient scheduling flexibility to work around these seasonal constraints.

Technical considerations, such as the expected availability of needed software and firmware from equipment vendors for reconfiguration, are also incorporated into the RPP. The TA also considered the need of each NPSPAC region to have sufficient technicians and other support personnel available during reconfiguration to perform or facilitate retuning. The reconfiguration process should ideally require minimal “touches” to equipment in the field. Finally, the TA incorporated other relevant licensee and vendor suggestions into the RPP, subject to their being consistent with the primary constraints found in the *800 MHz Order*.

F. Underlying Assumptions

The RPP is based on certain underlying assumptions that are deemed essential to the successful reconfiguration of all regions in a timely, efficient, and cost-effective manner. First, it was assumed that there will be labor and material resources available in sufficient quantities when needed. Second, the TA assumed that equipment manufacturers will have and will be able to deliver the needed resources of software, firmware, equipment, and technical support/service to conduct the reconfiguration as scheduled. In particular, it is assumed that equipment vendors will be able to provide key software and firmware upgrades in a timeframe consistent with the Plan. The TA believes these to be reasonable assumptions based on the inputs and comments received during its outreach efforts.

G. Flexibility

The TA notes that the RPP is a living document and, consistent with the *800 MHz Order*, may be subject to change throughout the reconfiguration process as circumstances may require.³⁰

³⁰ See, e.g., 47 C.F.R. § 90.676(a)(4); *Supplemental Order* at 33 (¶ 72).

For instance, continued input and feedback from stakeholders may necessitate changes in the RPP. Voluntary elections, particularly in those instances where EA licensees elect to convert to ESMR status, may affect the RPP. Also, changed conditions in the 800 MHz band, such as new reports of interference, may be another factor that results in the need to revise the RPP. Additionally, unforeseen events may occur and impact the proposed reconfiguration schedule or process. Delay in the processing of licensing applications or reaching new border treaties with Canada or Mexico will also impact the completion of reconfiguration for all NPSPAC regions. In short, the TA is committed to an ongoing and regular reassessment of the Plan throughout the reconfiguration process.

III. ELEMENTS OF THE PLAN

A. Prioritization “Waves”

1. Concept of Prioritization “Waves”

Based on input from several stakeholders and its own analysis, the TA has developed the concept of prioritization “waves” in which individual NPSPAC regions and “clusters” of NPSPAC regions, as discussed below, are aggregated to commence reconfiguration no later than a predetermined date. All NPSPAC regions, whether individually or as part of a cluster, are assigned to one of four waves. The first three waves have been scheduled for reconfiguration. The fourth wave is for specified border NPSPAC regions where the reconfiguration schedule depends on new treaties with Canada and Mexico.³¹ Those NPSPAC regions and clusters assigned to Wave 1, for example, would be first to begin reconfiguration. Those assigned to Wave 4 would not begin formal reconfiguration until further agreements are reached with the

³¹ Additionally, the TA is aware of several multi-region systems. As further discussed below, the RPP contemplates that reconfiguration of such systems will begin at the same time as the first of their covered NPSPAC regions begins reconfiguration.

Governments of Canada and Mexico. Each wave's time period consists of a voluntary negotiation period, a mandatory negotiation period, and the physical reconfiguration period. The mandatory negotiation period overlaps with the start of the physical reconfiguration period in that wave so that licensees may begin reconfiguration as they complete agreements with Nextel. In addition, each wave is subdivided into a timeframe for Channels 1-120 reconfiguration and a subsequent period for NPSPAC channel reconfiguration.³²

The start date of each wave represents the date by which a licensee must formally begin the reconfiguration process. There is no restriction, however, on a licensee and/or Nextel proactively initiating its reconfiguration process earlier than the start date for their region(s), provided that the TA has defined the appropriate financial and review processes for reimbursement. It should be noted that NPSPAC regions assigned to an earlier reconfiguration wave (and therefore an earlier start date) may be processed by the TA in accordance with their start date.

2. Process for Assigning NPSPAC Regions and “Clusters” to Prioritization Waves

The assignment of NPSPAC regions and clusters to specific prioritization waves was based on the TA's analysis of several factors. The TA considered the number, timing, and

³² Rule 90.677(b) suggests that all incumbent licensees in a given NPSPAC region are to commence the renegotiation process at the same time 30 days after release of a *Public Notice* announcing the applicable start date. As further discussed below, the RPP contemplates that this *Public Notice* would announce the start date for reconfiguration of Channels 1-120. This same *Public Notice* would also provide a “window” of dates for the start of voluntary negotiations for the NPSPAC channels. Once the TA determines that Channels 1-120 reconfiguration is substantially complete for a given NPSPAC region, the TA will announce the specific date, upon 30 days notice, within this window for the start of NPSPAC channel reconfiguration. The TA believes that these staggered start dates will help balance the workload across all NPSPAC regions and give licensees additional flexibility to manage their reconfiguration. If the Commission deems that a waiver of Rule 90.677(b) is needed to implement this proposal, the TA requests such a waiver.

duration of the proposed prioritization waves. The TA also took into account its plan for clustering certain NPSPAC regions, as described above, for simultaneous reconfiguration. The TA also attempted to allocate the covered population, interference complaints, and the estimated reconfiguration workload in an efficient manner consistent with the requirements of the *800 MHz Order*.

a. International Border Considerations

Significant effort was also made to evaluate and account for international border issues. According to the *800 MHz Order*, current treaties with Canada and Mexico create a distance (within 87 miles of the Canadian border and 68.4 miles of the Mexican border) outside of which no cross-border coordination is required.³³ New border area treaties with Canada and Mexico are under negotiation and are expected to affect how reconfiguration of licensees within the border areas is to be conducted. Until such agreements are in place, however, the Commission prescribes that all 800 MHz operations must remain compliant with existing international agreements.³⁴

With an understanding of these constraints, the TA identified NPSPAC regions and clusters of regions with international borders that have very low system densities within their border areas and that may be at least partially reconfigurable without new treaties in place. Region 19 (New England) and several mid-Western NPSPAC regions along the Canadian border meet this description. Accordingly, the TA scheduled these NPSPAC regions for reconfiguration.

The TA also identified NPSPAC regions and clusters that include international border areas that must be segregated and left for later reconfiguration due to either: (1) complex channel

³³ *800 MHz Order*, 19 FCC Rcd at 15063 (¶176).

³⁴ *Id.*

plans that have to be reconfigured but will be subject to forthcoming treaty negotiations with Canada and Mexico; or (2) highly dense existing licensing environments proximate to the border areas that render reconfiguring the entire region impractical until a final border area plan is achieved.³⁵ The resulting group of NPSPAC regions and clusters includes all of the NPSPAC regions along the border with Mexico and all densely populated NPSPAC regions along the Canadian border. These NPSPAC regions and clusters are assigned to a single wave (Wave 4). The RPP contemplates that these NPSPAC regions will not be included in the 36-month deadline to complete reconfiguration at this time.³⁶ If new developments make it possible to include these regions within this timeframe, the TA will seek to modify the RPP accordingly.

The TA, however, envisions that, where incumbent licensees in NPSPAC regions assigned to Wave 4 have networks that fall outside the affected border areas in those regions, they may start reconfiguration planning without waiting for their specified reconfiguration start date (which may be delayed waiting for a new treaty to be finalized with Canada or Mexico) once the TA has announced that this process is available. This is especially important for NPSPAC regions that have reports of high numbers of incidents of interference. To the extent that Nextel and an incumbent licensee can mutually agree on a reasonable plan that assures that there would be no need to reconfigure systems and mobile units a subsequent time once a border plan is negotiated, the TA anticipates that it will be supportive of such a plan.

³⁵ The TA acknowledges that this conclusion affects several possible clusters, such as clustering Region 5 (Southern California) with Region 6 (Northern California), which would otherwise be given the highest priority due to significant incidences of interference and large population size. It is also the case that certain statewide systems, such as in California, are forced to be reconfigured across more than one prioritization wave due to border constraints.

³⁶ See *800 MHz Order*, 19 FCC Rcd at 15064 n. 471 (providing that if the Canadian and Mexican border agreements are not completed with the 36-month deadline, Nextel is obligated to continue its financial support in a sum equal to that which would have been needed had the reconfiguration plan had include such border areas regardless of these international agreements).

b. Criteria for Wave Assignments

The TA has focused on the rank ordering of NPSPAC regions and clusters, considering population, incidents of reported interference (by number of interference reports/million population or “pops”), and workload metrics.³⁷

Assignment of NPSPAC regions and clusters to one of the four prioritization waves was determined by the following general criteria:

- **Wave 1.** This wave consists of NPSPAC regions and clusters with the highest interference complaints per million pops and highest population.
- **Wave 2.** This wave consists of NPSPAC regions and clusters not included in Waves 1, 3, or 4.
- **Wave 3.** The Southeastern states in this wave include the four States – Georgia, Florida, Alabama, and Mississippi³⁸ -- most affected by the alternative band plan for the region, defined in Appendix G of the *800 MHz Order*. According to this band plan, because the 813.5-817 MHz/858.5-862 MHz band is to be cleared for ESMR usage in addition to Channels 1-120, there are a material number of additional licensees, systems, and frequencies that must be reconfigured, resulting in a very high ratio of workload to population. By putting the Southeast region in Wave 3, more time is provided for negotiation and planning to account for what is expected to be a complex reconfiguration process. Conversely, because of the relatively few NPSPAC regions in this wave, it is expected that NPSPAC reconfiguration will be somewhat less intensive than in other waves.
- **Wave 4.** This wave consists of NPSPAC regions and clusters with dense licensing environments along the Canadian and Mexican borders. The TA has determined that these NPSPAC regions cannot be reconfigured until there are new treaties in place with Canada and Mexico that include new border band plans. This wave consists of most NPSPAC regions adjacent to Canada and all NPSPAC regions adjacent to Mexico.

³⁷ The TA has defined the applicable workload metrics as: (1) the number of distinct frequencies in NPSPAC regions and clusters; (2) the number of distinct entities (as defined by unique ULS Registration Number); and (3) the number of licensed systems in NPSPAC regions or clusters.

³⁸ The RPP also includes South Carolina and North Carolina in Wave 3 due to commenters’ recommendations that South Carolina be reconfigured at the same time as Georgia and North Carolina at the same time as South Carolina.

Wave 2 and Wave 3 include NPSPAC regions with minimal licensees along the Canadian border. These NPSPAC regions also do not have any region-wide public safety systems, which would prevent reconfiguration prior to the finalization of a new treaty with Canada. Any systems in these regions' border areas that cannot be reconfigured because of a lack of treaty will be left in place. The TA, however, may conclude that reconfiguration is nonetheless substantially complete for such NPSPAC regions for purposes of meeting the 18-month interim benchmark requirement contained in the *800 MHz Order* once Channels 1-120 reconfiguration is completed.

The following table summarizes the percentage allocation of covered population, reports of interference, and estimated workload across the four reconfiguration waves:

	Wave 1	Wave 2	Wave 3	Wave 4
Population Covered	38%	22%	15%	25%
Interference Complaints	55%	4%	10%	31%
Workload	31%	19%	25%	25%

c. Multi-Region/Multi-Wave Systems

The TA is aware of a number of instances of multi-region/multi-wave systems. These systems operate in several NPSPAC regions, span wave boundaries, and do not otherwise lend themselves to any other clusters. Examples include systems operated by Motient, FedEx, the California Department of Transportation, and some public utilities.

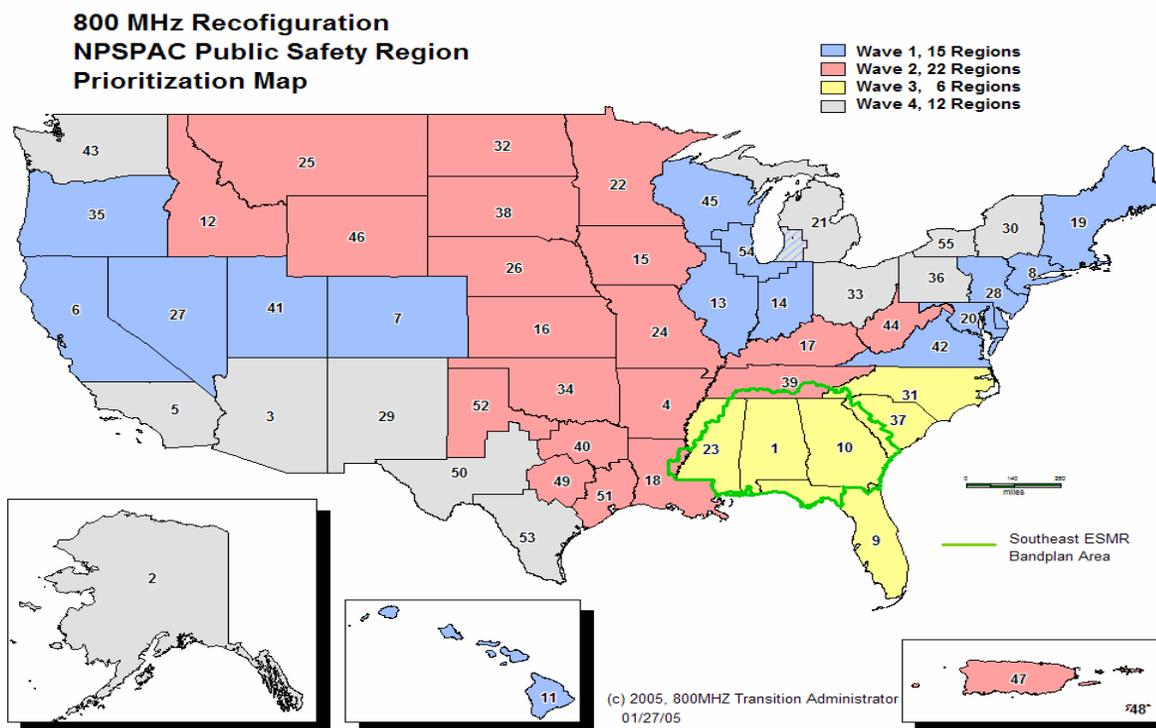
The RPP provides that any entity with such a multi-region system within multiple waves is to begin reconfiguration in conjunction with the first wave in which they have operations.³⁹

³⁹ See *800 MHz Order*, 19 FCC Rcd at 15072 n. 514 (noting that the TA has the discretion “to exclude certain non-public safety licensees from a NPSPAC region relocation schedule, provided that they are eventually relocated prior to the end of band reconfiguration”).

For example, if a licensee has a multi-region system operating in NPSPAC regions assigned to Wave 1 and Wave 3, the voluntary negotiation period for that entity and all of its licensed systems, no matter the NPSPAC region, must start simultaneously with Wave 1. The TA, however, encourages all of these entities to work with Nextel and the TA to start negotiations at the same time as Wave 1, even if they do not have operations in any NPSPAC region assigned to that wave.

d. NPSPAC Region Wave Assignments⁴⁰

A map of all 55 NPSPAC regions and their proposed wave assignments is set forth below:



⁴⁰ The TA notes that not included among the 55 NPSPAC regions are areas such as American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands. The TA also is aware of frequencies among Channels 1-120 in the Gulf of Mexico that may require future consideration of their inclusion in the 800 MHz band reconfiguration. The TA defers any determination regarding their appropriate treatment, if any, in the RPP pending further direction from the Commission.

The following table indicates the wave assignments for each NPSAC region:

	NPSAC Region	
Wave 1	6 – Northern California 7 – Colorado 8 – Metropolitan, NYC Area (NY, NJ, CT) 11 – Hawaii 13 – Illinois (except Southern Lake Michigan counties) 14 – Indiana (except Southern Lake Michigan counties) 19 – New England 20 – District of Columbia, Maryland, Northern VA	27 – Nevada 28 – Eastern Pennsylvania (east of Harrisburg, southern NJ & DE) 35 – Oregon 41 – Utah 42 – Virginia 45 – Wisconsin (except Southern Lake Michigan counties) 54 – Southern Lake Michigan (Great Lakes inc. WI, IL, IN & MI), except that part of Region 54 in MI
Wave 2	4 – Arkansas 12 – Idaho 15 – Iowa 16 – Kansas 17 – Kentucky 18 – Louisiana 22 – Minnesota 24 – Missouri 25 – Montana 26 – Nebraska 32 – North Dakota	34 – Oklahoma 38 – South Dakota 39 – Tennessee 40 – Texas (Central & Northeast) 44 – West Virginia 46 – Wyoming 47 – Puerto Rico 48 – US Virgin Islands 49 – Texas – Central (Austin Area) 51 – Texas – East (Houston Area) 52 – Texas – Panhandle, High Plains & Northwest (Lubbock Area)
Wave 3	1 – Alabama 9 – Florida 10 – Georgia 23 – Mississippi 31 – North Carolina 37 – South Carolina	
Wave 4	2 – Alaska 3 – Arizona 5 – Southern California 21 – Michigan (except Southern Lake Michigan counties) and that portion of Region 54 in Michigan 29 – New Mexico 30 – Eastern Upstate New York	33 – Ohio 36 – Western Pennsylvania 43 – Washington 50 – Texas – West & Central (Midland Area) 53 – Texas – Southern (San Antonio) 55 – Western Upstate New York

B. “Clustering” of NPSAC Regions

The RPP reflects groupings of certain NPSAC regions that are proposed to be reconfigured concurrently. The assignment of certain regions to such “clusters” is based on several factors. First, many stakeholders recommended that certain regions be reconfigured together due to circumstances such as the presence of large 800 MHz systems that span regional boundaries, adjacent NPSAC regions with integrated spectrum plans, or metropolitan regions geographically encompassing two or more NPSAC regions. The TA also studied ULS data to identify NPSAC regions with a very heavy licensing “landscape,” *e.g.*, many licensed sites adjacent to a regional boundary for which there is a similarly heavy licensing landscape in the adjacent region. The TA also identified entities licensed heavily on both sides of regional

borders. These factors led the TA to identify and assign certain NPSPAC regions to clusters for simultaneous reconfiguration, as summarized below:

- **Michigan.** The TA proposes to split Region 54 (Southern Lake Michigan – Great Lakes inc. WI, IL, IN & MI) and cluster the Michigan portion of Region 54 with Region 21 (Michigan – except Southern Lake Michigan counties) for purposes of reconfiguration. The TA recommends that Region 54, which includes parts of Illinois, Indiana, Michigan, and Wisconsin along the southern end of Lake Michigan, should be split at the Michigan state line. The Michigan portion of Region 54 should be clustered with Region 21, which covers the rest of Michigan. This allows two systems covering the entirety of Michigan’s lower peninsula and spanning Regions 21 and 54 to be reconfigured within the same wave. The remainder of Region 54 in Illinois, Indiana, and Wisconsin would stay intact. Although the Chicago area reported high numbers of incidences of interference, leaving Region 54 intact would delay reconfiguration of Chicago due to Canadian border issues affecting Region 21. If the border issues are resolved quickly, the Region 54 split can be re-evaluated. Also, it should be noted that licensees in the Michigan portion of Region 54 that are not affected by the border band plan may start their reconfiguration process earlier.
- **Chicago/Illinois/Indiana/Wisconsin.** The TA proposes to cluster the remainder of Region 54 (Southern Lake Michigan – Great Lakes inc. WI, IL, IN & MI), Region 13 (Illinois – except Southern Lake Michigan counties), Region 14 (Indiana – except Southern Lake Michigan counties), and Region 45 (Wisconsin – except Southern Lake Michigan counties). Commenters from Regions 13, 14, and 45 recommended that they be reconfigured together along with the Chicago portion of Region 54.
- **Texas (Non-Border Regions).** The TA proposes to cluster Region 49 (Texas – Central (Austin Area)); Region 40 (Texas (Central & Northeast)), which includes Dallas; Region 51 (Texas – East (Houston Area)); and Region 52 (Texas – Panhandle, High Plains & Northwest (Lubbock Area)). Comments expressed that these regions should be reconfigured simultaneously to maintain critical public safety interoperability. The TA also proposes that the remaining NPSPAC regions in Texas, namely Region 50 (Texas – West & Central (Midland Area)), which includes El Paso, and Region 53 (Texas – Southern (San Antonio Area)) be reconfigured in a single cluster because of common border issues with Mexico.
- **South Carolina/Georgia.** The TA proposes to cluster Region 37 (South Carolina) and Region 10 (Georgia) based on comments from South Carolina requesting to be reconfigured at the same time as Georgia. South Carolina noted that its statewide system operates some sites over its border with Georgia. As described below, South Carolina and Georgia are to be part of a single Wave, Wave 3, including the regions in which Southern LINC operates and adjacent regions in the Southeastern United States. (*See Appendix G to 800 MHz Order.*)

- **New England/New York to Virginia Corridor.** The TA proposes to cluster Region 19 (New England); Region 8 (Metropolitan, NYC Area (NY, NJ & CT)); Region 28 (Eastern Pennsylvania (east of Harrisburg, southern NJ & DE)); Region 20 (District of Columbia, Maryland, and Northern Virginia); and Region 42 (Virginia), which includes the remainder of Virginia. Commenters from New England expressed a need to be reconfigured along with New York because Connecticut is split between Region 8 and Region 19. In addition, comments were received that recommended that high-density regions along Interstate 95 from Boston to Virginia should be reconfigured at the same time.
- **Upstate New York.** The TA proposes to cluster Region 55 (Western Upstate New York) and Region 30 (Eastern Upstate New York). One comment requested that Regions 55, 30, and 8 (Metropolitan, NYC Area (NY, NJ & CT)) be reconfigured together. However, as noted above, due to the division of Connecticut between NPSAC regions, Region 8 is to be reconfigured along with Region 19 (New England) and adjacent regions south along Interstate 95. Clustering Region 8 with Region 55 and Region 30 would effectively delay the reconfiguration of one of the most populous and interference-plagued NPSAC regions in the country. At this point, Regions 55 and 30 are best reconfigured with each other due to significant Canadian border issues affecting both regions. The TA recognizes, however, that there is a planned statewide voice and data network for public safety agencies in New York and will facilitate reconfiguration for this system to the extent possible given international border constraints.⁴¹
- **Kansas/Missouri.** The TA proposes to cluster Region 16 (Kansas) and Region 24 (Missouri). Comments recommended that Missouri be reconfigured along with Region 13 (Illinois – except Southern Lake Michigan counties) and Region 16 due to significant cross-border systems in the St. Louis, MO/East St. Louis, IL and Kansas City, MO/Kansas City, KS metropolitan regions. The TA is concerned that reconfiguring Kansas and Missouri at the same time as Illinois, which is part of the Chicago/Illinois/Indiana/Wisconsin cluster discussed above, will create an excessive workload for Wave 1, especially given the relatively low level of reported interference in Kansas and Missouri. The TA recommends, however, that Kansas and Missouri be reconfigured together. East St. Louis will be afforded the flexibility to be reconfigured along with St. Louis separately from the rest of Illinois. The TA notes additionally that the reconfiguration periods for Illinois and Missouri will overlap, which will make feasible coordination of St. Louis and East St. Louis.

⁴¹ Pennsylvania faces a similar situation. Regions 36 (Western Pennsylvania) and Region 28 (Eastern Pennsylvania (east of Harrisburg, southern NJ & DE)) were not clustered together due to Region 36 international border constraints. The TA recognizes the need for increased attention to the Pennsylvania statewide 800 MHz public safety communications systems and will work to facilitate reconfiguration for the entire state to the extent possible given international border constraints.

- **Ohio/Pennsylvania/Michigan.** The TA proposes to cluster Region 33 (Ohio), Region 36 (Western Pennsylvania), and Region 21 (Michigan – except Southern Lake Michigan counties), as there is heavy regional border licensing overlap among these three regions.
- **Southeast.** The TA proposes to cluster Region 1 (Alabama), Region 9 (Florida), Region 10 (Georgia), Region 23 (Mississippi), Region 31 (North Carolina), and Region 37 (South Carolina). These are the regions in which Southern LINC operates, or their immediate adjacent regions. These regions are subject to a unique band plan (*see Appendix G of the 800 MHz Order*), which requires additional configuration of the 813.5-817 MHz/858.5-862 MHz band. For these reasons, the TA has assigned these regions to a single wave, Wave 3.

Due to international border issues or conflicting requests from commenters, the TA recommends that that the following regions not be clustered:

- **California.** The TA does not recommend that Region 5 (Southern California) and Region 6 (Northern California) be clustered. One commenter requested that these NPSPAC regions be reconfigured together. However, Southern California has significant Mexican border issues that will necessitate a later reconfiguration schedule than the northern part of the state. Any statewide systems, such as the California Department of Transportation, will be afforded flexibility in planning their reconfiguration process.
- **Minnesota/Wisconsin.** The TA does not recommend clustering Region 2 (Minnesota) and Region 45 (Wisconsin – except Southern Lake Michigan counties). While commenters noted that these regions do coordinate 800 MHz systems, no need was expressed that they be reconfigured simultaneously.
- **New York City/Western New York/Northern New York.** The TA does not recommend that Region 8 (Metropolitan, NYC Area (NY, NJ & CT)) be clustered with Region 55 (Western Upstate New York), and Region 30 (Eastern Upstate New York). As noted above, Regions 55 and 30 have significant Canadian border issues that require resolution. Region 8 is best reconfigured along with Region 19 (New England) and the regions along Interstate 95 to Virginia.
- **Ohio/All Adjacent Regions.** Comments from Ohio requested that Region 33 (Ohio) be reconfigured with all its adjacent NPSPAC regions. However, the TA recommends that Region 33 be reconfigured with only its two adjacent regions: Region 36 (Western Pennsylvania) and Region 21 (Michigan – except Southern Lake Michigan counties), due to common Canadian border issues. In addition, clustering Ohio with Region 14 (Indiana (except Southern Lake Michigan counties)), which has no Canadian border issues, would delay reconfiguration of the Chicago area (Region 54).

- **Washington/Oregon.** Commenters from Region 35 (Oregon) and Region 43 (Washington) requested that these two regions be reconfigured together. The TA, however, does not recommend clustered reconfiguration of these two regions. Oregon is a region with a high reported number of incidents of interference that should be reconfigured early. Washington, however, is a border region that cannot be reconfigured until new border treaty is negotiated with Canada. Vancouver, WA and surrounding areas, however, will be afforded the flexibility to reconfigure with Region 43 because of its proximity to and coordination with systems in Portland, Oregon.
- **Texas.** Although several commenters indicated that the six Texas NPSPAC regions should all be reconfigured together, the two border NPSPAC regions would unnecessarily delay the whole state, which includes two highly populated areas, Dallas and Houston, in regions that could otherwise be reconfigured.

The TA will iteratively revisit these clustering recommendations during the reconfiguration process.

C. Sequence and Timing of Reconfiguration “Windows”

1. Factors Considered

The RPP recommends specific sequence and timing “windows” for each reconfiguration wave. The proposed timing windows are designed to promote the completion of reconfiguration for each NPSPAC region in the timeframes provided in the *800 MHz Order* while still providing flexibility in the reconfiguration process at the individual NPSPAC region and licensee levels. Most important, the proposed timing windows are structured to meet the requirement that reconfiguration of non-Nextel, non-Southern LINC incumbents in Channels 1-120 be complete and NPSPAC channel negotiations be initiated in the first 20 NPSPAC regions within the first 18 months of the aggregate 36-month reconfiguration window.⁴² Each window also provides for the

⁴² See *Supplemental Order* at 24 (¶ 53). Also, in accordance with the *800 MHz Order’s* requirements, the RPP provides that all systems must have commenced reconfiguration within 30 months of the Commission *Public Notice* announcing the first NPSPAC region’s start date. *800 MHz Order*, 19 FCC Rcd at 15075 (¶ 201). The TA interprets “commenced” in this context to mean that the requisite relocation agreements and actual reconfiguration activities have commenced consistent with such agreements.

six-month negotiation period (three months voluntary and three months mandatory) specified in the *800 MHz Order*.⁴³

In developing the timing of these reconfiguration windows, the TA considered various commenters' suggestions that, generally, longer intervals are needed to reconfigure Channels 1–120 and even longer intervals are needed to reconfigure NPSPAC channels. The TA also took into account estimates on availability of needed software and firmware. The TA also considered seasonal conditions of various NPSPAC regions and special events, *e.g.*, the Super Bowl or other major events, when devising the duration of the reconfiguration windows. The TA believes that the proposed windows for each wave will reasonably provide available resources and workflow in an efficient and effective manner.

2. Proposed Sequence and Timing of Reconfiguration Windows

The RPP provides that the four prioritization waves start reconfiguration successively on a staggered schedule, with the last NPSPAC region wave beginning reconfiguration no later than six months after the first. In addition, the RPP contemplates a staggered schedule for beginning reconfiguration of Channels 1-120 and NPSPAC channels within each NPSPAC region.⁴⁴

⁴³ *800 MHz Order*, 19 FCC Rcd at 15075-76 (¶ 201).

⁴⁴More specifically, the RPP proposes the following reconfiguration start dates for the four waves: Wave 1: Monday, June 27, 2005; Wave 2: Monday, October 3, 2005; Wave 3: Tuesday, January 3, 2006; Wave 4: Pending international treaties with Canada and Mexico.

The following table illustrates the proposed sequencing and timing of the prioritization waves and the corresponding reconfiguration windows:

		18 Months												
		2005		2006				2007				2008		
		Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	
Wave 1	1-120 Negotiations	[Blue bar]												
Wave 1	1-120 Reconfiguration		[Blue bar]											
Wave 1	NPSAC Negotiations			[Blue bar with dots: PN Window]										
Wave 1	NPSAC			[Blue bar with dots]		[Blue bar]								
Wave 2	1-120 Negotiations		[Red bar]											
Wave 2	1-120 Reconfiguration		[Red bar]											
Wave 2	NPSAC Negotiations			[Red bar with dots: PN Window]										
Wave 2	NPSAC			[Red bar with dots]		[Red bar]								
Wave 3	1-120 Negotiations			[Yellow bar]										
Wave 3	1-120 Reconfiguration			[Yellow bar]										
Wave 3	NPSAC Negotiations				[Yellow bar with dots: PN Window]									
Wave 3	NPSAC				[Yellow bar with dots]		[Yellow bar]							
Wave 4	1-120 Negotiations			[Grey bar]										
Wave 4	1-120 Reconfiguration			[Grey bar]										
Wave 4	NPSAC Negotiations					[Grey bar with dots: PN Window]								
Wave 4	NPSAC					[Grey bar with dots]		[Grey bar]						

Actual dates depend on treaties

The Plan is structured to meet the Commission’s 18-, 30-, and 36-month deadlines, while at the same time preserving flexibility in the process. More specifically, the Plan’s staggered roll-out of reconfiguration “waves” ensures that Channels 1-120 incumbents in three reconfiguration waves (43 NPSAC regions) initiate reconfiguration negotiations by January 3, 2006. Initiating the process so early in the 36-month timeframe for so many NPSAC regions, and providing each NPSAC region the flexibility to begin the NPSAC reconfiguration process as soon as possible, facilitates expeditious system reconfiguration and provides Nextel the opportunity to meet (and, indeed, significantly surpass) the Commission’s 18-month interim benchmark requirement by December 27, 2006.

Further, under the Plan, all 800 MHz systems will have commenced reconfiguration in advance of the Commission’s 30-month deadline. More specifically, the Plan provides that all NPSAC regions not dependent on new international treaties will begin actual NPSAC

reconfiguration negotiations by December 29, 2006. Having completed all 800 MHz Channels 1-120 reconfiguration by that date (significantly exceeding the 30-month goal) allows essentially an entire year for NPSPAC reconfiguration to commence. Likewise, the ability of each NPSPAC region to proceed from Channels 1-120 to NPSPAC reconfiguration as soon as possible will help 800 MHz incumbents meet the Commission's goal. Practically, since the Plan will surpass the Commission's deadlines, the "margin of error" is increased, which will lead to the completed reconfiguration of the entire 800 MHz band, to the extent possible, by June 27, 2008.

a. Channels 1-120

The TA's proposed timing windows provide that Channels 1-120 for each NPSPAC region in each wave will be allotted 12 months for reconfiguration. The 12 months include a three-month voluntary negotiating period and a nine-month period for physical reconfiguration. The three-month voluntary negotiating period contemplates time for Commission application processing. The three-month mandatory negotiation period overlaps with the start of the physical reconfiguration period so that licensees may begin reconfiguration as they complete agreements with Nextel. The 12-month reconfiguration period is intended to provide licensees with sufficient time to conduct reconfiguration around special events and seasonal issues.

b. NPSPAC Channels

The TA proposes an 18-month reconfiguration window for NPSPAC channels, which includes a three-month voluntary negotiation period and 15 months for physical reconfiguration. Following a similar structure as Channels 1-120, the three-month voluntary negotiation period includes time for Commission application processing, and a subsequent three-month mandatory negotiation period overlaps with the reconfiguration period. Again, the 15-month

reconfiguration period is intended to provide licensees with sufficient time to conduct reconfiguration around special events and likely seasonal issues. The extra time for NPSPAC reconfiguration should help mitigate concerns of public safety entities that they will encounter more detailed contracting requirements due to their generally greater system complexity stemming from, for example, multi-site simulcast networks and inter-related agency radio programming. Moreover, the 15 months for NPSPAC reconfiguration should mitigate concerns expressed as to whether there will be adequate labor resources to conduct programming and/or equipment replacement within larger NPSPAC regions.

The TA further recommends that the Channels 1-120 reconfiguration windows overlap with the voluntary negotiation period of the NPSPAC incumbents. This additional “buffer” should provide more reconfiguration time for licensees that are affected by special events, seasonal issues, or other factors that require more time.

c. Other Reconfigurations

The *800 MHz Order* contemplates relocations besides those of incumbents on Channels 1-120 and NPSPAC channels. For example, as discussed above, public safety entities may be relocated out of the new Expansion Band, ESMR and EA licensees may elect to move into the new ESMR band, and other incumbents otherwise not requiring relocation may request to move to the Expansion Band or the Guard Band. Also, the modified band plan for the Southeastern United States mandates relocation of additional non-Channels 1-120 and non-NPSPAC incumbents to accommodate an expanded ESMR band. Such incumbents fall outside of the structured timeframes contemplated by the Commission for the relocation of Channels 1-120 and NPSPAC incumbents. In relocating these “unique” categories of licensees, the TA will strive to

maintain flexibility to address relocation solutions on a practical and case-by-case basis so as to minimize the number of retunings required.

The TA envisions that public safety systems relocating out of the Expansion Band should adhere to the negotiation timeframes established for Channels 1-120 licensees in their appropriate reconfiguration wave. Actual system reconfiguration of incumbents moving out of the Expansion Band, however, should not be rigidly tied to the Channels 1-120 reconfiguration timeframes, and should not be considered by the TA when analyzing whether Channels 1-120 reconfiguration in a NPSPAC region is “substantially complete” to trigger the start of NPSPAC negotiations in a given NPSPAC region. Instead, the actual reconfiguration will be dependent on the overall frequency configuration for a given public safety system and the concept of minimizing the number of times a system must be “touched.” Public safety systems electing to relocate out of the Expansion Band will be reconfigured within a timeframe that makes the most sense for the overall process. If the system also has NPSPAC frequencies, it may be more efficient to delay the actual reconfiguration of the Expansion Band channels until the NPSPAC channels are ready to be reconfigured as well. Alternatively, if the system has no NPSPAC channels but has Channels 1-120 channels, then the Expansion channel reconfiguration should be done when Channels 1-120 are reconfigured. Should a system have all three types of channels, a judgment will have to be made whether all channels can be done later in the process during the NPSPAC timeframe, or if a multiple-stage reconfiguration is required.

The TA envisions that incumbents in the Southeastern United States (*i.e.*, the Appendix G region) that are required to relocate from 813.5-817 MHz/858.5-862 MHz band to accommodate the expanded ESMR Band should adhere to the negotiation schedule applicable to Channels 1-120 incumbents in their appropriate reconfiguration wave. Actual system reconfiguration,

however, should not be tied to the Channels 1-120 reconfiguration schedule, but should instead be scheduled on a case-by-case basis based upon the actual operating environment in the region and other practical considerations (including the desire to minimize “touches” to equipment). Actual system reconfiguration of incumbents relocating out of the 813.5-817 MHz/858.5-862 MHz band should not be considered by the TA in triggering the start of NPSPAC negotiations in a given NPSPAC region or considering whether overall reconfiguration in a NPSPAC region is “substantially complete” for purposes of satisfying the Commission’s 18-month interim benchmark.

For other relocation elections, such as ESMR relocations, EA relocations, and voluntary relocations to the Guard Band, as a general matter, incumbent Channels 1-120 licensees should adhere to the negotiation and reconfiguration timeframes applicable to Channels 1-120 incumbents in their appropriate reconfiguration wave. Relocation negotiations and actual reconfiguration of incumbents relocating out of the interleaved portion of the 800 MHz band, however, should be scheduled on a case-by-case basis in a manner that supports best the overall process. The TA plans to work with Nextel and such reconfiguring licensees to help ensure that the number of “touches” to their systems is minimized and that reconfiguration is scheduled at an appropriate time given other requirements.

d. Proposed Schedule for Reconfiguration Windows

It is not expected that all NPSPAC regions or clusters in a given reconfiguration wave will complete reconfiguration of Channels 1-120 at the same time. Nor is it advisable to delay starting NPSPAC channel reconfiguration until Channels 1-120 reconfiguration is completed for an entire wave. The RPP, therefore, contemplates non-simultaneous start dates for NPSPAC reconfiguration following the reconfiguration of Channels 1-120 in a given NPSPAC region.

Accordingly, the RPP proposes that the *Public Notice*⁴⁵ released by the Commission announcing the start date for reconfiguration of Channels 1-120 for NPSPAC regions in a wave also include a “window” of dates for the start of voluntary negotiations for the NPSPAC channels.⁴⁶ Once the TA determines that a NPSPAC region or cluster has substantially completed reconfiguration of Channels 1-120, the TA will announce the specific date, upon 30 days notice, for the start of NPSPAC channel reconfiguration in that NPSPAC region or cluster. Under this plan, it is anticipated that the *Public Notice* for initiating NPSPAC reconfiguration within a given wave will be released no more than 11 months following the start date of Channels 1-120 reconfiguration.⁴⁷

Based on this proposed schedule, the TA estimates that as many as 30 months may be needed to reconfigure each NPSPAC region. This conclusion is consistent with comments submitted to the TA. It also takes into account the Channels 1-120 and NPSPAC channel reconfiguration periods, as well as the three-month overlap when NPSPAC voluntary negotiation takes place while Channels 1-120 reconfiguration is also occurring. These calculations dictate that reconfiguration of all NPSPAC regions not contingent on the resolution of border issues should have commenced reconfiguration by the start of the seventh month after the designated “Reconfiguration Start Date,” as described below. Commencing reconfiguration of all NPSPAC

⁴⁵ See 47 C.F.R. § 90.677(b). Reconfiguration of Channels 1-120 is to begin 30 days after release of this *Public Notice*.

⁴⁶ The RPP proposes the following “windows” for each wave in which the TA will name a specific date for NPSPAC reconfiguration to start: **Wave 1:** Tuesday, January 3, 2006 to Friday, June 30, 2006; **Wave 2:** Monday, April 3, 2006 to Friday, September 29, 2006; **Wave 3:** Thursday, June 1, 2006 to Friday, December 29, 2006; **Wave 4:** Pending international treaties with Canada and Mexico.

⁴⁷ This calculation takes into account the 30-day period between release of the *Public Notice* and the actual start date of NPSPAC channel reconfiguration for each NPSPAC region and cluster.

regions within seven months also ensures fair treatment of all NPSPAC regions, as no region will be unduly delayed before starting the reconfiguration process. It is estimated that regions with border area complications would have to start the reconfiguration process no later than the beginning of the tenth month after the Reconfiguration Start Date for them to have a reasonable likelihood of concluding reconfiguration within the required 36 months. For those NPSPAC regions assigned to this Wave 4, the TA believes that reconfiguration, assuming that new border treaties have been negotiated with Canada and Mexico, can proceed in a somewhat shorter timeframe due to lessons learned and proven efficiencies gained from reconfiguration in the prior three waves.

D. Proposed Reconfiguration Start Date: June 27, 2005

The TA recommends that the Commission designate June 27, 2005 as the official starting date, the “Reconfiguration Start Date,” when voluntary relocation negotiations must begin between Nextel and incumbent licensees in the NPSPAC regions constituting Wave 1. In accordance with the *800 MHz Order*, the TA anticipates that the Commission will therefore release a *Public Notice* on May 27, 2005 announcing that reconfiguration in the NPSPAC regions in Wave 1 will begin 30 days thereafter, or June 27, 2005.⁴⁸ Moreover, the TA proposes that this same *Public Notice* will announce the Reconfiguration Start Date as the start date for computation of the 18-, 30-, and 36-month benchmarks.⁴⁹

⁴⁸ *800 MHz Order*, 19 FCC Rcd at 15076 (¶ 201). Thirty days prior to June 27, 2005 is May 28, 2005, which is a Saturday. Accordingly, the TA recommends that the *Public Notice* be released on Friday, May 27, 2005, which is 31 days before the proposed June 27, 2005 Reconfiguration Start Date.

⁴⁹ *Supplemental Order* at 25 (¶ 55). The *Supplemental Order* further provides that the starting date for computation of the reconfiguration benchmarks will be 30 days after the issuance of this *Public Notice*. *Id.*

Incumbent licensees would be permitted to submit their reconfiguration cost estimates before the proposed June 27, 2005 Reconfiguration Start Date under certain circumstances. More specifically, the TA will permit incumbent licensees in Wave 1 and multi-wave systems to submit cost estimates required to support reconfiguration planning activities to the TA beginning on or about April 15, 2005. These early starting activities will enable the reconfiguration process to move more quickly and allow Nextel and the TA to test and refine their respective reconfiguration support processes. The TA will release further information regarding such submissions at a future date.

The proposed June 27, 2005 Reconfiguration Start Date is based on several underlying assumptions and conditions precedent. First, it is based on the assumption that there will be no material changes in the reconfiguration rules as currently defined by the Commission in the intervening months after approval of the RPP. Second, the TA assumes that non-ESMR EA and other elections will not result in any material changes to the RPP impacting the proposed schedule. Third, it is assumed that any necessary updates to the Commission's license application procedures and forms will have been completed as needed to process licensing changes during the reconfiguration process. Fourth, it is assumed that Nextel's selection of the Letter of Credit Trustee(s) will be completed and the required tri-party agreement(s) will be fully negotiated and executed. Fifth, the TA assumes that Nextel and the TA – as well as manufacturers and service providers – will have developed and implemented the necessary procedures and staffing and other resources to support the start of reconfiguration and provide the necessary funding.

Finally, the proposed June 27, 2005 Reconfiguration State Date is approximately five months after the January 31, 2005 deadline for submission of the RPP to the Commission. This

five-month window should provide sufficient time for the TA to make any necessary modifications to the proposed RPP.⁵⁰ Further, during this time the TA will establish uniform reconfiguration policies, frequency planning policies, and other guidelines and procedures, which will be communicated and made available to stakeholders. The TA has already begun defining its frequency planning efforts to support reconfiguration. Additionally, the TA will also use this window to develop and distribute stakeholder educational and training materials, conduct stakeholder training on execution of the reconfiguration process, and continue outreach efforts. Finally, the TA will also establish various communications, tracking and reporting, and other support mechanisms that will facilitate the execution and administration of the reconfiguration process. The TA believes that the five-month window will be sufficient time to conclude these preparations.

⁵⁰ The *800 MHz Order* specifies that the Wireless Telecommunications Bureau is given delegated authority to finalize and approve the RPP. *800 MHz Order*, 19 FCC Rcd at 15075 (¶ 201).

IV. CONCLUSION

Pursuant to Section 90.677(a) of the Commission's rules, as amended (47 C.F.R. 90.677(a)), the TA requests Commission approval of the proposed Regional Prioritization Plan of the 800 MHz Transition Administrator. The TA looks forward to working with the Commission and 800 MHz incumbents to expeditiously eliminate harmful interference and help ensure a timely, efficient, and fair reconfiguration process.

Respectfully submitted,

**THE 800 MHz TRANSITION
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